

CHAPTER 27 REAL ESTATE PRACTICE AND HEARINGS

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2700	TRANSFER OF LICENSE
2700.1	Upon receipt of a properly filed request and payment of fees the Commission may approve license transfers.
2700.2	Requests for change of status from an individual real estate or business chance broker to that of a member, partner, trustee or officer of a firm, partnership, association, business trust or corporation or to that of a real estate or business chance broker affiliated with a corporation shall be made on a form provided by the Commission.
2700.3	Requests for transfer of a salesperson's license from one (1) broker to another shall be made on a form provided by the Commission.
2700.4	A transfer request shall be submitted not less than thirty (30) days from the requested effective date of the action. Notwithstanding the preceding, no transfers may be effected sixty (60) days prior to the renewal of the license.
2700.5	No licensee may effect a transfer without prior approval of the Commission.

2700.6 Firm, partnership, association, business trust and corporate licensees shall also comply with the provision of this section.

2700.7 Firm, partnership, association, business trust and corporate licensees shall notify the Commission of any change in the status of affiliation with real estate or business chance brokers and real estate or business chance salespersons.

AUTHORITY: Unless otherwise noted, the authority for this chapter is the District of Columbia Real Estate Licensure Act of 1982, D.C. Law 4-209, D.C. Code §45-1921 *et seq.* (1981), and Mayor's Order 83-123, issued May 6, 1983, 30 DCR 3040 (June 17, 1983).

SOURCE: Final Rulemaking published at 31 DCR 1289 (March 16, 1984).

2701 PLACE OF BUSINESS

2701.1 For purposes of complying with §14 of the Act, the place of business shall have a phone, desk and pertinent files and shall conspicuously display therein the license of all persons licensed to act as a broker or salesperson and shall likewise conspicuously display on the door or outside of the premises named in the license a sign bearing the word "Real Estate" or where authorized, "Realtor" or "Realtist."

2701.2 The sign stipulated in §2701.1 shall be visible from a public highway or public hallway, and shall include the licensee's name. A post office box nor an answering service shall satisfy the requirements of §14 of the Act.

2701.3 A duplicate license shall be obtained and displayed in each branch office maintained in the District.

2701.4 Each place of business shall be managed by a broker licensed under the Act.

2701.5 Real estate brokers, business chance brokers and property managers shall notify the Commission of any change in the location of his or her principal place of business upon a form provided by the Commission.

2701.6 The notice shall include the requested effective date of the relocation and shall be submitted at least thirty (30) days prior to the planned relocation date.

2701.7 The brokers license and the licenses of all employees shall accompany the notice.

2701.8 Upon receipt of a properly filed notice and payment of fees the Commission shall issue new licenses within thirty (30) days.

2701.9 Within one hundred and eighty (180) days from the effective date of this chapter non-resident brokers shall notify the Commission of their principal place of business in the District.

SOURCE: Final Rulemaking published at 31 DCR 757, 764 (February 24, 1984); as amended by Final Rulemaking published at 31 DCR 1289 (March 16, 1984).

2702 ESCROW FUND

2702.1 For purposes of complying with §18 of the Act, the escrow fund shall include, but not be limited to, earnest money deposits.

- 2702.2 In addition to complying with the other requirements of §18 of the Act, within (30) thirty days from the effective date of the Act all escrow holders or trustees shall notify the Commission of all escrow in trust accounts existing on the effective day of the Act on a form provided by the Commission.
- 2702.3 Each escrow holder or trustee shall notify the Commission within fourteen (14) calendar days of the name and post office address of the financial institution in which an account has been established on a form provided by the Commission.
- 2702.4 The form shall include the following:
- (a) Name of escrow account;
 - (b) Account number;
 - (c) Financial institution where account is located;
 - (d) Address of institution;
 - (e) Licensee's name, address, telephone number and license number; and
 - (f) Notarized authorization for the Commission's review of all pertinent documents held by the financial institution.
- 2702.5 For purposes of complying with §18 (a)(1) of the Act "deposited expeditiously" shall mean within five (5) business days from the date the contract is ratified and delivered.

SOURCE: Final Rulemaking published at 31 DCR 757, 764 (February 24, 1984).

2703 EXCEPTION TO INSURANCE COMPANY EXEMPTION

- 2703.1 Title insurance companies shall not be construed to be included in the insurance company exemption provided by §13(d) of the Act.

SOURCE: Final Rulemaking published at 31 DCR 757, 765 (February 24, 1984).

2704 REAL ESTATE GUARANTY AND EDUCATION FUND ASSESSMENT

- 2704.1 An applicant for a license as a real estate broker, real estate salesperson, or property manager shall pay, in addition to the applicable license fee, the sum of sixty dollars (\$60.00) into the Fund. An applicant for a license in the second half of the biennial license period shall pay, in addition to the applicable license fee, thirty dollars (\$30.00) into the Fund.
- 2704.2 Upon renewal of a license, a licensee shall pay, in addition to the applicable renewal fee, the sum of sixty dollars (\$60.00) into the Fund.
- 2704.3 The Fund shall at all times maintain a balance of not less than five hundred thousand dollars (\$500,000) nor more than one million five hundred thousand dollars (\$1,500,000).

- 2704.4 The Commission shall suspend collection of the assessment for the Fund of licensees and applicants on January 1 of any year, if on the prior October 1, the balance of the Fund is within fifty thousand dollars (\$50,000) of the maximum established under this section.
- 2704.5 The Commission may resume collection of the assessment for the Fund of licensees and applicants on January 1, if on the prior October 1, the balance of the Fund is within fifty thousand dollars (\$50,000) of the minimum amount established under this section.
- 2704.6 Any time the amount of the Fund falls below the minimum amount established under this section, the Commission shall assess each licensee up to twenty dollars (\$20.00) during any license year to bring the balance of the Fund up to the minimum amount.
- 2704.7 A licensee whose license has been suspended for failure to pay an assessment required to bring the balance of the Fund up to the minimum established pursuant to §2704.6 shall have his or her license restored only upon receipt of the delinquent assessment plus six percent (6%) interest calculated from the date the assessment was due to the date of payment and penalties in the amount of fifty dollars (\$50.00).

SOURCE: Final Rulemaking published at 36 DCR 5954 (August 18, 1989).

2705 REAL ESTATE GUARANTY AND EDUCATION FUND PAYMENT TO APPLICANTS

- 2705.1 The Department shall make a payment from the Fund to an applicant for payment within sixty (60) days after an order is signed by the Commission; Provided, that sufficient money is on deposit in the Fund.
- 2705.2 For purposes of this section, "sufficient fund" means the amount of money necessary to satisfy a duly authorized claim.
- 2705.3 A duly authorized claim which remains unsatisfied due to insufficient money or deposit in the Fund shall accumulate interest at the rate of four percent (4%) per annum.

SOURCE: Final Rulemaking published at 34 DCR 5987, 5988 (September 18, 1987).

2706 REAL ESTATE GUARANTY AND EDUCATION FUND RESTORATION OF LICENSE

- 2706.1 A licensee whose license has been suspended pending payment in full of an amount ordered paid from the Fund shall not be eligible to have his or her license restored until he or she has paid the full amount ordered paid from the Fund plus six percent (6%) interest per annum.

SOURCE: Final Rulemaking published at 34 DCR 5987, 5988 (September 18, 1987).

2707 REAL ESTATE GUARANTY AND EDUCATION FUND USE FOR PROGRAMS

- 2707.1 The Commission may use the Fund to pay that proportion of the cost of a program which is equal to the percentage of the program which is directly related to establishing or maintaining an educational program to improve the competency of licensees or applicants for licensure.

- 2707.2 The Commission may authorize the Fund to be used for expenditures for conferences, workshops and educational programs, for real estate license officials as provided in §§2707.3 and 2707.4.
- 2707.3 For purposes of this subsection, a "real estate license official" means an employee of the District of Columbia whose duties involve the enforcement of real estate license laws, including but not limited to commissioners, legal counsel, and other employees as designated by the Commission.
- 2707.4 The Commission may use the Fund to pay the entire permissible cost of participation of a real estate license official in a conference, workshop, or educational program that the Commission determines is qualified pursuant to §2707.4 where his or her duties relate in whole or in part to the enforcement of real estate license laws.
- 2707.5 In deciding whether a conference, workshop, or educational program is qualified, the Commission shall consider the following:
- (a) The educational objective of the proposed program;
 - (b) The length of the proposed program, the schedule of instruction, location and anticipated number of participants;
 - (c) A list of instructors and their credentials; and
 - (d) Any other information about the conference, workshop, or program as the Commission may require.

SOURCE: Final Rulemaking published at 34 DCR 5987, 5988 (September 18, 1987).

2708 - 2709 [RESERVED]

2710 OPPORTUNITY FOR A HEARING

- 2710.1 Every applicant for or holder of a license, or applicant for reinstatement after revocation, shall be afforded notice and an opportunity to be heard prior to the action of the Commission, pursuant to §§8 (6)(7)(8), 11, 17, 20, 21, 22, 23, 24, and 25 of the Act, the effect of which would be as follows:
- (a) To deny a license for any cause other than failure to qualify;
 - (b) To refuse to transfer a license;
 - (c) To suspend a license;
 - (d) To revoke a license;

- (e) To restore a license;
- (f) To refuse to issue a renewal by annual registration for any cause other than failure to pay the prescribed fees; or
- (g) To impose a penalty.

SOURCE: Final Rulemaking published at 31 DCR 757, 766 (February 24, 1984).

2711 NOTICE OF CONTEMPLATED ACTION

2711.1 When the Commission contemplates taking action of the type specified in §2710.1(a), it shall give to the applicant a written notice containing the following statement:

- (a) That the applicant has failed to satisfy the Commission as to his or her qualifications to sit for examination or to be approved for licensure, as the case may be;
- (b) Indicating in what respect the applicant has failed to satisfy the Commission; and
- (c) That a hearing before the Commission has been scheduled not less than thirty (30) nor more than sixty (60) days from receipt of the notice.

2711.2 When the Commission contemplates taking any action of the type specified in §§2710(b), (c), (d), (e), (f), or (g), it shall give the person concerned a written notice containing the following statement:

- (a) That the Commission has sufficient evidence, and setting forth the nature of the same, which, if not rebutted or explained, justifies the Commission taking the contemplated action; and
- (b) That a hearing before the Commission has been scheduled not less than thirty (30) nor more than sixty (60) days from receipt of the notice.

SOURCE: Final Rulemaking published at 31 DCR 757, 766 (February 24, 1984).

2712 PROCEDURES WHEN A PERSON FAILS TO RESPOND TO A HEARING NOTICE

2712.1 If the person concerned does not respond to the hearing notice within the time specified, the Commission may, without a hearing, take the action contemplated in the notice. The Commission shall, in writing, inform the person concerned, the Corporation Counsel, and the Director, of the Commission's action.

SOURCE: Final Rulemaking published at 31 DCR 757, 767 (February 24, 1984).

2713 NOTICE OF A HEARING

2713.1 Any notice required by this chapter, may be served either personally by the Director or by certified mail, return receipt requested, directed to the person concerned at his or her last known residence or business address as shown by the records of the Department of Consumer and Regulatory Affairs.

- 2713.2 If notice is served personally, it shall be considered to have been served at the time when delivery is made to the person concerned. If notice is served by certified mail, it shall be considered to have been served on the date borne upon the return receipt showing delivery of the notice to the person concerned or refusal of the person concerned to receive notice.
- 2713.3 In the event that the person concerned is no longer at the last known address as shown by the records of the Department of Consumer and Regulatory Affairs and no forwarding address is available, the notice shall be considered to have been served on the date the return receipt bearing the notification is received by the Director.
- 2713.4 If a person scheduled for a hearing does not appear and no continuance has been or is granted, the Commission shall hear the evidence of the witnesses as may have appeared, and the Commission may proceed to consider the matter and render a decision on the basis of evidence before it.

SOURCE: Final Rulemaking published at 31 DCR 757, 766 (February 24, 1984).

2714 CONDUCT OF HEARINGS

- 2714.1 Every hearing before the Commission shall be open to the public.
- 2714.2 Except when a hearing officer is designated, at least a majority of the members of the Commission shall be present to hear the evidence and render a decision.
- 2714.3 A person entitled to a hearing shall have the right to the following:
- (a) To be represented by counsel;
 - (b) To present all relevant evidence by means of witnesses and books, papers, and documents;
 - (c) To examine all opposing witnesses on any matter relevant to the issues; and
 - (d) To have subpoenas issued to compel the attendance of witnesses and the production of relevant books, papers, and documents upon making written request to the Commission.
- 2714.4 In connection with any hearing held pursuant to this chapter, the Commission or its designee shall have the power to do the following:
- (a) To request of the Director that counsel from the Office of the Corporation Counsel be appointed to represent the District in any case before the Commission;
 - (b) To administer oaths or affirmations, either personally or through their designated agent, to witnesses called to testify;
 - (c) To subpoena respondents and other witnesses and relevant books, papers, and documents;

- (d) To take testimony;
- (e) To examine witnesses; and
- (f) To direct continuance of any case without regard to the limitation in §2711 of this chapter.

- 2714.5 In proceedings before the Commission, if any person refuses to respond to a subpoena or refuses to take the oath or affirmation as a witness or thereafter refuses to be examined, or refuses to obey any lawful Order of the Commission contained in its decision rendered after hearing, the Commission may make application to the proper court for an Order requiring obedience thereto.
- 2714.6 In all proceedings held by the Commission, the Commission shall receive and consider any evidence or testimony. However, the Commission may exclude incompetent, irrelevant, immaterial, or unduly repetitious evidence or testimony.
- 2714.7 In any Commission proceeding resulting from the Commission's contemplated action to deny licensure, the applicant shall have the burden of satisfying the Commission of his or her qualifications.
- 2714.8 In any Commission proceeding resulting from the Commission's contemplated action to refuse to renew, to suspend, or to revoke a license, or to refuse transfer or restore a license or to impose a penalty, the District shall have the burden of proving that the action should be taken.
- 2714.9 In all hearings conducted by the Commission, a complete record shall be made of all evidence presented during the course of a hearing. Any party to the proceedings desiring it shall be furnished with a copy of the record, upon payment of the fee as the Commission shall prescribe.

SOURCE: Final Rulemaking published at 31 DCR 757, 767 (February 24, 1984).

2715 FINDINGS AND DECISIONS

- 2715.1 The Commission shall render a decision, in writing, as soon as practicable, but not later than ninety (90) days after the date the hearing is completed.
- 2715.2 The decision of the Commission shall contain the following:
- (a) Findings of fact made by the Commission;
 - (b) Application by the Commission of the Act and these Rules to the facts as found by the Commission; and
 - (c) The decision of the Commission based upon paragraphs (a) and (b) of this subsection.
- 2715.3 Within seven (7) calendar days after the decision is rendered, the Commission shall serve upon the person concerned, or his or her attorney of record, a copy of the

written decision either personally or by certified mail. If sent by certified mail, it shall be considered to have been served on the date contained on the return receipt, or refusal of the person concerned to receive notice or the date of the unsuccessful attempt of the postal service to make delivery.

SOURCE: Final Rulemaking published at 31 DCR 757, 769 (February 24, 1984).

2716 REOPENING, JUDICIAL REVIEW AND RECONSIDERATION

- 2716.1 If, because of accident, sickness, or other good cause, a person fails to appear for a hearing which has been scheduled, the person may, within thirty (30) days from the date of the decision of the Commission, apply to the Commission to reopen the proceedings; and the Commission upon finding the cause sufficient, shall immediately fix a time and place for hearing and give that person, the Corporation Counsel, and the Director notice as required by this chapter.
- 2716.2 The Commission may reopen a proceeding for any other cause sufficient to it; Provided, that no appeal is pending before a court or has been decided by a court.
- 2716.3 A person aggrieved by an adverse decision of the Commission, issued after a hearing, may seek a review of the Commission's decision by the District of Columbia Court of Appeals. Failure to seek judicial review in the manner and within the time as the Court by rule may prescribe, shall result in the Commission's decision becoming final.
- 2716.4 Within the time as may be fixed by rule of the reviewing Court, the Commission shall certify and file with the Clerk of the Court, the record of the case, including the following:
- (a) A copy of the notice of hearing and action contemplated by the Commission;
 - (b) A complete transcript of the testimony taken at the hearing;
 - (c) Copies of all pertinent documents and other written evidence introduced at the hearings; and
 - (d) A copy of the Commission's written decision.

SOURCE: Final Rulemaking published at 31 DCR 757, 770 (February 24, 1984).

2799 DEFINITIONS

- 2799.1 The provisions of §2699 of chapter 26 of this title and the definitions set forth in that section shall be incorporated by reference in this section.

